UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,	§	
EX REL. JAMES OSBORNE,	§	
	§	
Plaintiff,	§	
V.	§	CIVIL ACTION NO.
	§	
HOMECARE PRODUCTS,	§	SA-06-CV-0746 NN
INCORPORATED d/b/a EZ ACCESS,	§	
DON EVERARD,	§	
DEANNE SONDVOLD,	§	
GELEDA EVERARD,	§	
BRIAN CLARK and	§	
AMERICAN ACCESS, INC.,	§	
	§	
Defendants.	§	

ORDER DENYING MOTION TO EXCEED PAGE LIMIT (#53), STRIKING DOCKET ENTRY #52 AND DIRECTING FILING OF MOTION FOR LEAVE TO FILE LATE RESPONSE TO MOTION FOR SUMMARY JUDGMENT

This order addresses plaintiff James Osborne's motion for leave to file motion in excess of ten-page limit (docket entry # 53). In his motion, Osborne asked for leave to file a response to the motion for summary judgment filed by defendants Homecare Products, Don Everard, Geleda Everald, and Deanne Sondovold (docket entry # 49). Osborne stated that his response exceeds this district's ten-page limit for responses because of the nature of his claims and the number of defendants. Although he has not obtained leave to file the response, Osborne filed the response electronically simultaneous to filing his motion (docket entry # 52).

The time for responding to the defendants' motion expired on April 25, 2008. Osborne's response is therefore 20 days late. The court has nearly completed its review of the pending

dispositive motion. Osborne did not address the tardiness of his response in his motion or seek leave to file a late response. Consequently, Osborne's motion does not set forth an appropriate basis for filing his response. Compliance with the rules which dictate the time within which to file a response to pending motions is an important aspect of the court's management of its docket. The rules require that Osborne establish "excusable neglect" for his failure to timely file a response in order to obtain leave to file a late response. F.R.Civ.P. 6(b)(2).

Because he has not requested or obtained leave, I direct the clerk of the court to strike the response (docket entry # 52). The motion to exceed the page limit is similarly DENIED, subject to reurging with appropriate argument and authorities. Osborne is directed to file a motion for leave to enlarge the time to file his response which addresses the excusable neglect standard of F.R. Civ.P. 6(b)(2) no later than May 22, 2008. If Osborne does not file his motion to enlarge by May 22, 2008, I will resolve the defendants' motion for summary judgment without a response.

SIGNED on May 15, 2008.

NANCY STEIN NOWAK

UNITED STATES MAGISTRATE JUDGE

Mancy Steen Monak